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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/557,529	11/21/2005	Wolfgang Eckhardt	Q106-666	8743
23373	7590	12/18/2009	EXAMINER	
SUGHRUE MION, PLLC 2100 PENNSYLVANIA AVENUE, N.W. SUITE 800 WASHINGTON, DC 20037			BRIGGS, NATHANIEL R	
			ART UNIT	PAPER NUMBER
			2871	
			NOTIFICATION DATE	DELIVERY MODE
			12/18/2009	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

sughrue@sughrue.com  
PPROCESSING@SUGHRUE.COM  
USPTO@SUGHRUE.COM

### Office Action Summary

**Application No.**

10/557,529

**Applicant(s)**

ECKHARDT ET AL.

**Examiner**

NATHANAE L. BRIGGS

**Art Unit**

2871

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 03 November 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 16-20 is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/22)
- Paper No(s)/Mail Date \_\_\_\_\_

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 03 November 2009 has been entered.

### ***Response to Arguments***

2. Applicant's arguments with respect to claims 1-20 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. **Claims 5-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Whitted et al. (US 6,795,137) in view of Evanicky et al. (US 2007/0085816).**

5. Regarding claims 5 and 12, Whitted discloses an arrangement (see figure 12, for instance), comprising: a panel (500) of a flat screen, wherein the panel is illuminated from the rear by the light of a back light (510); a back light control (503, 504) adjusting a luminance of the back light, a sensor outputting an actual luminance signal to the back

light control; first light-permeable parts (206) arranged between the back light and the sensor, wherein the sensor (502) senses the ambient luminance, the panel comprises second light permeable parts (208), the back light is arranged between the first light-permeable parts and the second light-permeable parts (*claim 12*: between the light-permeable parts (206) of the panel and the further light-permeable parts (208)), and at least one of deterioration properties and temperature properties of the first light permeable parts essentially correspond to the properties of the second light-permeable parts. However, Whitted does not expressly disclose wherein the sensor senses the luminance of the first light-permeable parts.

6. Regarding claims 5 and 12, Evanicky discloses an arrangement (see figure 14D, for instance) having a flat panel (216) and wherein a sensor (800) senses the luminance of first light-permeable parts.

7. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the sensor of Evanicky in the arrangement of Whitted. The motivation for doing so would have been to calibrate the panel according to desirable color characteristics, as taught by Evanicky ([0081]). Claims 5 and 12 are therefore unpatentable.

8. Regarding claims 6 and 13, Whitted discloses the arrangement according to claims 5 and 12 (see figure 12, for instance), wherein the first light-permeable parts comprise at least one of diffuser films and polarization films (column 1, lines 35-37). Claims 6 and 13 are therefore unpatentable.

9. Regarding claims 7 and 14, Whitted discloses the arrangement according to claims 6 and 13 (see figure 12, for instance), wherein the first light-permeable parts further comprise a panel glass with LCD fluid (104). Claims 7 and 14 are therefore unpatentable.

10. Regarding claims 8-11 and 15, Whitted discloses the arrangement according to claims 5-7 and 12 (see figure 12, for instance), wherein the first light-permeable parts are essentially identical to the second light-permeable parts. Claims 8-11 and 15 are therefore unpatentable.

***Allowable Subject Matter***

11. Claims 16-20 are allowed.

12. The following is an examiner's statement of reasons for allowance: Claim 16 recites an arrangement comprising: a flat screen display panel having a viewing side, a back side and at least a first light-permeable layer between the viewing side and the back side; a back light illuminating the panel from the back side of the panel; a second light-permeable layer corresponding in at least one predetermined property to the first light-permeable layer; a sensor detecting a luminance of the back light through the second light-permeable layer but not through the first light-permeable layer. None of the prior art of record alone or in combination discloses the claimed subject matter.

13. *Whitted et al. (US 6,795,137)* discloses an arrangement comprising: a flat screen display panel having a viewing side, a back side and at least a first light-permeable layer between the viewing side and the back side, a back light illuminating the panel from the back side of the panel; a second light-permeable layer corresponding in at

least one predetermined property to the first light-permeable layer; and a sensor detecting ambient luminance. However, Whitted does not expressly disclose a sensor detecting a luminance of the backlight through the second light-permeable layer but not through the first light-permeable layer, nor would it have been obvious to do so in combination.

14. *Evanicky et al. (US 2007/0085816)* discloses an arrangement comprising: a flat screen display panel having a viewing side, a back side and at least a first light-permeable layer between the viewing side and the back side, a back light illuminating the panel from the back side of the panel; and a sensor detecting luminance through the first light-permeable layer. However, Whitted does not expressly disclose a second light-permeable layer corresponding in at least one predetermined property to the first light-permeable layer, or wherein the sensor detecting a luminance of the backlight through a second light-permeable layer but not through the first light-permeable layer, nor would it have been obvious to do so in combination.

15. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to NATHANAEL R. BRIGGS whose telephone number is

(571)272-8992. The examiner can normally be reached on 9 AM - 5:30 PM Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Nelms can be reached on (571) 272-1787. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Nathanael Briggs  
12/15/2009

/David Nelms/  
Supervisory Patent Examiner, Art Unit 2871